UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

INDEPENDENT ASSET MANAGEMENT, LLC,

Index No. 07-CV-6431 (JSR)

ECF

Plaintiff,

- against -

DANIEL ZANGER,

Defendant.

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE DEFENDANT FROM INTRODUCING EVIDENCE CONCERNING DEFENDANT'S OBLIGATION TO COVER MARGIN CALLS IN IFL'S ACCOUNT

- I, Craig Stuart Lanza, declare under penalty of perjury as follows:
- 1. I am an attorney at the law firm of Balestriere Lanza PLLC, attorneys for Plaintiff Independent Asset Management ("IAM"). I submit this declaration in support of Plaintiff's Motion *In Limine* to Preclude Defendant from Introducing Evidence Concerning Defendant's Obligation to Cover Margin Calls in IFL's Account.
- 2. Attached to this declaration, under the identified exhibit tabs, are true and correct copies of the following documents:

Exhibit A – IFL Margin Report

<u>Exhibit B</u> – Zanger Deposition (excerpts)

<u>Exhibit C</u> – October Instant Message Communication

Exhibit D - November Instant Message Communication

3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July 21, 2008 New York, New York

s/ Craig Stuart Lanza

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing document was served on the following counsel of record on July 21, 2008, via the methods listed below:

By ECF
Mike Silberfarb
MSilberfarb@JonesDay.com
Attorneys for Defendant

s/ Craig Stuart Lanza

Craig Stuart Lanza

BALESTRIERE LANZA PLLC

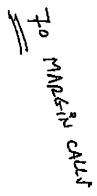
225 Broadway, Suite 2900 New York, NY 10007

Telephone: (212) 374-5404 Facsimile: (212) 208-2613

Attorneys for Plaintiff

Exhibit A

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INDEPENDENT FUND LIMITED

9-Nov-06

DAY TRAPING UBLATIONS

Exhibit B

1	ZANGER	
2	that I would harm IFL.	57
3	Q You are done with your answer?	
4	A I believe so.	
5	Q You never threatened to drain th	ne.
6	fund?	
7	A I don't have that recollection.	
8	Q Let's turn to November of 2006.	
9	You had a day trading call on November 30th of	
10	2006; is that correct?	
11	A What date was that?	
12	Q November 30th.	
13	A Of 2006?	
14	Q Yes.	
15	A A day trading call on	
16	November 30th?	
17	Q Yes.	
18	A There was a day trading call.	
19	Q And you chose not to cover that	
20	day trading call; is that correct?	
21	MR. SEAR: Objection to the form	
22	Answer it as best that you can.	
23	A Yeah, I chose not to send in	
24	payment for that call.	
25	Q And the reason that you chose not	:

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1	ZANGER	58
2	to send in payment was because you didn't want	
3	to experience a three- to four-week wait; is	
4	that correct?	
5	A No.	
6	Q So you never said no more three-	
7	to four-week waits in relation to that	
8	November 30, 2006 violation?	
9	MR. SEAR: Objection to the form.	
10	A Yeah, I may have said that.	
11	Q But a three- to four-week wait had	
12	nothing to do with your choosing to cover it?	
13	MR. SEAR: Objection to the form.	
14	Answer it.	
15	A Well, it had something to do with	
16	it, yes.	
17	Q You were aware that if you didn't	
18	cover that call that the fund could no longer	
19	actively trade; is that correct?	
20	A Well, let's say that it could no	
21	longer actively trade at Goldman Sachs, but it	
22	could actively trade.	
23	Q If the fund could no longer	
24	actively trade, you can get your money back;	
25	is that correct?	

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Exhibit C

oct 10 06 im gbszele (8:30:48 AM): hey Dan - you're on a margin call - can you resolve that this AM as soon as possible please - thanks gbszele (10:31:05 AM): hey Dan - you're on a margin call - can you resolve that this AM as soon as possible please - thanks chartpattern (10:31:15 AM): done gbszele (10:45:49 AM): good month - look out though - market may turn soon chartpattern (10:48:15 AM): k

Exhibit D

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nov 10 06 im
gbszele (3:22:12 PM): dan have you spoken with Gia on your margin call?
chartpattern (3:22:18 PM): yup
gbszele (3:22:19 PM): she keepd emailing me
gbszele (3:22:19 PM): She keepd emailing me
gbszele (3:22:21 PM): keeps
gbszele (3:34:00 PM): dan we need to talk
gbszele (3:34:15 PM): gia said she has not heard from you
chartpattern (3:34:29 PM): I'm not sending in any more money
chartpattern (3:34:38 PM): no more 3-4 week waits
gbszele (3:35:33 PM): you have a margin call - again - why and what do you propose
to do?
chartpattern (3:35:41 PM): nothing
chartpattern (3:35:49 PM): I liquidated
chartpattern (3:35:55 PM): today chartpattern (3:36:05 PM): its all I will or can do
gbszele (3:36:08 PM): so the why is she complaining
gbszele (3:36:14 PM): then chartpattern (3:36:14 PM): nos ure
chartpattern (3:36:17 PM): not sure
gbszele (3:39:33 PM): there is nothin i can do about the wires - it is out of my
hands - there are laws and they have to be followed
chartpattern (3:39:41 PM): ok
chartpattern (3:39:55 PM): last time cost me over 600K chartpattern (3:40:24 PM): had to liquidate my calls in CME the day before it shot
up 30 points
chartpattern (3:40:30 PM): never again
gbszele (3:47:15 PM): dan- you are the one creating the problem with the calls - you are costing yourself- why do you keep doing it? I 'm not the one trading - you are
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